

REMARKS/ARGUMENTS

DETAILED ACTION

Claims 1-28 are pending in this application.

Specification

The Examiner stated that the specification is objected to as failing to meet the preferred layout. The specification has been amended. The Examiner has removed his objections to the specification.

Claim Rejections – 35 USC § 103

The Examiner stated that claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hogan et al. (Patent No US 5,483,587), hereinafter Hogan, in view of Eran (Pub. No US 2005/0069114 A1, hereinafter "Eran").

First and foremost, Eran, is not a valid prior art reference under 35 U.S.C. 102 Conditions for patentability; novelty and loss of right to patent. Eran was filed on August 6, 2003. Applicant's patent was filed on March 3, 2004, seven months and twenty five days after Eran was filed. Thus, Eran was *NOT known or used* by others in this country, or *patented or described in a printed publication* in this or a foreign country, before the invention thereof by the applicant for a patent, or

(b) the invention was *NOT patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States*, or ...

(c) the invention was *NOT described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent...*" See 35 U.S.C. 102 (Emphasis and wording added).

Secondly, Applicant disagrees that that claims 1-28 are obvious under 35 U.S.C. 103(a) and unpatentable over Hogan in view of Eran. The Examiner states on page 5 of the Office Action mailed on October 8, 2008 that “providing a mixer identifier that uniquely identifies the one mixer to the VRU (page 3, [0036], lines 1-5; i.e. unique identifier=enhanced streams from all the streams the selected participants ...each stream having a different mix). This passage states in the pertinent part *“supplies each participant with an uncompressed mixed audio stream of the selected participants and/or the signal IVR.. Mixer may supply more than one stream, each stream having a different mix.”* Eran states that the mixer *may* supply more than one stream, each stream having a different mix. It says nothing about a mixer identifier. It is not inherent in the disclosure. *Ascertaining the differences between the prior art and the claims at issue requires interpreting the claim language, and considering both the invention and the prior art references as a whole.* See MPEP § 2111 - § 2116.01 for case law pertaining to claim interpretation. The Examiner is not looking at the claimed invention as a whole, but rather distilling the invention down to a gist or thrust of the invention and completely disregarding the “as a whole requirement.” See MPEP § 2111. Claim 1 states in the pertinent part:

assigning the new conference to one of a plurality of mixers;

generating a unique identifier for the new conference;

providing the unique identifier to the one mixer and the VRU;

providing a mixer identifier that uniquely identifies the one mixer to the VRU;

loading the data store with at least the conference code, the unique identifier for the new conference, and the mixer identifier; and

placing the VRU and the one mixer in audio communication. (Emphasis added)

thus, in divergence from Eran, Applicant requires that “the new conference is assigned to one of a plurality of mixers”, the above-mentioned passage *refers to individual participants*, while the claim language above is referring to *“a new conference.”*

Moreover, the Examiner goes on to state that “loading the data store with at least the conference code, the unique identifier for the new conference, and the mixer identifier” refers to the same language in Eran, i.e. mixer identifier=appropriate mixer, *infers mixers are identified*

[0044, lines 8-10]. The entire passage from that portion of the text of Eran reads as follows “first, in order to eliminate the nuisance from the rest of the participants, control unit places participant into Mute stage. *The control unit instructs switch to prevent the audio signal that belongs to this nuisance conferee from the appropriate mixer.*” This is not Applicant’s invention as claimed. There are three requirements for this claim elements, not one of which has been met by the Examiner’s analysis. Applicant could go on and on. The Examiner has not done his job. He has piecemealed prior art that has no resemblance to Applicant’s invention and continues to reject Applicant’s claims in light of very strong arguments on Applicant’s part and even absurd comparisons by the Examiner of Eran to Applicant’s invention.

Ascertaining the differences between the prior art and the claims at issue requires interpreting the claim language, and considering both the invention and the prior art references as a whole. See MPEP § 2111 - § 2116.01 for case law pertaining to claim interpretation. The Examiner is not looking at the claimed invention as a whole, but rather distilling the invention down to a gist or thrust of the invention and completely disregarding the “as a whole requirement.” See MPEP § 2111.

Finally, in the last statement with regard to claim 1, the examiner states “it would have been obvious to combine the teachings of Hogan with the teachings of Eran to include a mixer. In order to make signal processing of the calls easier and less expensive, and to allow amplification of the received signal at a frequency other than what was sent.” The Examiner’s Official Notice does not make sense as Applicant would not have looked to Eran (*even if he could*) as basis for his invention. It has nothing to do with his claimed invention, one only has to use *common sense* to see that a system to allow a conferee that has been defined as a source of nuisance to respond to an automatic decision of an MCU has no comparison with the intricate database system, searching, assessing, evaluating and assigning method of entering a host into a new conference call of Applicant’s invention. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” (In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006) cited with approval in KSR).

The above-mentioned arguments apply equally to all independent claims as the same arguments are used by the Examiner. Claims 1, 24, 25, 26, 27 and 28 are all allowable under the Examiner's arguments and are not unpatentable under 35 U.S.C. 103(a) over Hogan, in view of Eran.

However, purely in the interest of expediting the prosecution of the instant invention, Applicant has amended claims 1, 24, 25, 26, 27 and 28 to approximately include the following limitations:

- receiving a call from a given caller at a VRU;
- receiving at least a conference code from the given caller at the VRU;
- forwarding the conference code to a proxy server via a provisioning database, wherein the provisioning database responds to the VRU with a signal indicating a validity or an invalidity of the conference code submitted by the VRU to the provisioning database;
- sending a request to the proxy server to enter the given caller into a conference call;
- determining, by the proxy server, that the request from the VRU relates to conferencing services;
- forwarding, by the proxy server, the request to a conference management system, which comprises at least a data store and at least one interface server receiving the request;
- determining that the given caller is a conference host;
- determining that at least one participant has called in previously to the given caller and has provided a conference code that is at least related to the conference code entered by the given caller;
- requesting that a new conference be created that corresponds to the conference code entered by the given caller;
- assigning the new conference to one of a plurality of mixers, wherein the conference management system requests that the proxy server select one of the plurality of mixers to host the new conference call, which will be associated with a unique identifier generated for the new conference;
- generating a unique identifier for the new conference;
- corresponding a unique mixer identifier to the selected mixer stored with the conference code and the conference identifier thereby associating the conference with the mixer;
- providing the unique identifier to the one mixer and the VRU, wherein the mixer identifier uniquely identifies the one mixer to the VRU;
- providing a mixer identifier that uniquely identifies the one mixer to the VRU;

loading the data store with at least the conference code, the unique identifier for the new conference, and the mixer identifier; and
placing the VRU and the one mixer in audio communication.

Support for such limitations can be found at least on pages 2-9 of the instant invention. Neither Hogan nor Eran teach or suggest such limitations. As such, Applicant believes that claim 1, 24, 25, 26, 27 and 28 as well as the that depend therefrom, are in condition for allowance and respectfully request they be passed to allowance. In light of the arguments set forth below, Applicant traverses each and every claim, depending from claim 1, 24, 25, 26, 27 and 28.

For at least the reasons above, Applicant believes the independent claims, as well as the claims that depend from them, are in condition for allowance and respectfully request they be passed to allowance.

Respectfully submitted,
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